



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Manuel Tony Lucero

File: B-228425

Date: December 8, 1987

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### DIGEST

A bid is late when the bidder fails to relinquish control of the bid to the government until the time set for bid opening has past.

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### DECISION

Manuel Tony Lucero protests the rejection of his hand-carried bid as late under the Mahaffey Lake #4 Timber sale conducted by the Forest Service, United States Department of Agriculture. We deny the protest.

Bids were due by 2:00 p.m. September 25, 1987 in the conference room of the District Ranger's Office. At approximately 1:50 or 1:55 p.m. of that day, Lucero entered the conference room after returning from an unsuccessful attempt to locate and inspect the timber sale area. When Lucero arrived, the bid receiving agent introduced himself, inquired as to whether Lucero had an updated form, advised him to complete the appropriate forms "right away," and answered Lucero's questions. Another Forest Service agent then assisted Lucero in completing the forms and at 1:59 p.m. advised him that he had one minute remaining in which to submit the bid. At 1:59 p.m. and 55 seconds, Lucero placed the unsealed envelope in front of him, but did not submit it. At 2:00 the bid receiving agent announced that the time for receiving sealed bids had expired. Lucero attempted then to submit his bid but was advised that it could not be accepted since it was after 2:00 p.m.

Lucero argues that it was not made clear to him who the bid receiving agent was and that he was prevented from submitting a bid because the apparent agent was engaged in a

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conversation a few moments before the 2:00 p.m. deadline. Lucero also suggests that the agent acted improperly in not accepting his bid shortly after 2:00 p.m.

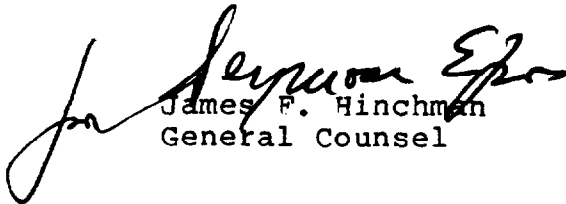
As a general rule, it is the responsibility of the bidder to deliver its bid to the proper place at the proper time, and the late delivery of a bid requires its rejection. Hi-Grade Logging, Inc., B-222230, June 3, 1986, 86-1 CPD ¶ 514. Our cases provide for limited exceptions to this rule. A late hand-carried bid may be considered where the paramount cause of the late receipt is improper action of the government and where consideration of the late bid would not compromise the integrity of the competitive procurement system. The University of Kansas, B-222329, Apr. 15, 1986, 86-1 CPD ¶ 369. This line of cases requires affirmative government action that makes timely delivery of the hand-carried bid to the bid opening location impossible. See T.E. De Loss Equipment Rentals, B-214029, July 10, 1984, 84-2 CPD ¶ 35. These cases, however, do not support Lucero's position that his bid be accepted.

A review of the record here indicates that the government conduct could certainly not be characterized as improper, nor could it be shown to be the paramount cause of the late receipt. Rather, Lucero acknowledges that the bid receiving agent introduced himself, inquired as to whether he had an updated form, and answered his questions. In addition, another government agent assisted him in completing the forms and kept him apprised of the time remaining. Indeed, the record indicates that the government attempted to help Lucero submit his bid on time rather than hinder him from doing so.

Lucero also suggests that he was confused as to who the correct bid receiving agent was. However, this confusion does not justify his taking no action whatever. The time when a bid is submitted is determined by the time the bidder relinquishes control of the bid to the government. See Chestnut Hill Construction, Inc., B-216891, Apr. 18, 1985, 85-1 CPD ¶ 443. Lucero, however, did not relinquish control of his bid prior to 2:00 p.m. Not only did he fail to relinquish control, he also failed to even exhibit an intent or make an attempt to do so. Whatever his reason was for not submitting his bid in a timely manner, his failure to submit a bid was not aided in any way by the government.

Lucero's contention that his bid should have been accepted because it was presented "around 2:00 p.m., i.e., shortly after 2:00 p.m., is without merit. The bid receiving agent's declaration is determinative of lateness unless it is shown to be unreasonable under the circumstances. See Chattanooga Office Supply Company, B-228062, Sept. 3, 1987, 87-2 CPD ¶ 221.

The protest is denied.

  
James F. Hinchman  
General Counsel